

REMARKS

Upon entry of the foregoing Amendment, claims 1-21 are pending in the application. Claims 1, 3, 5, 8, 10 and 12 have been amended. No claims have been cancelled or added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

Examiner Interview

Applicant thanks Examiner Bullock for granting Applicant's representative the courtesies of an Examiner Interview on July 12, 2006. During the Examiner interview, Applicant's representative discussed claims 1 and 5 in light of the rejections as set forth below in further detail.

Rejection Under 35 U.S.C. § 101

The Examiner has rejected claims 1, 5, 6, 8, 12, 13 and 16 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicant traverses this rejection because the claims are directed toward statutory subject matter.

Specifically, claim 1, for example, recites among other features, "means for controlling timing of the installation of the update based on one or more installation criteria." This feature provides a useful and tangible result in that timing of an update is controlled. Accordingly, the rejection is improper and must be withdrawn.

The Examiner has rejected claims 5-7 and 10-12 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter because the claims are allegedly directed toward a functional program (deployer) without an accompanying storage medium or executing on a computer system. Applicant contends that claim 10 as it stands fully complies with 35 U.S.C. § 101 and MPEP 2106.

Applicant contends that the language of the claims 5 and 12 prior to the amendment complies with 35 U.S.C. § 101 and MPEP 2106. Nonetheless, solely in an effort to expedite prosecution of this matter, Applicant have amended claims 5 and 12 to recite a deployer (or deployer means) "operative on a computer system."

Applicant requests that the Examiner withdraw this rejection of claims 5, 10, and 12 and the claims that depend therefrom.

Rejection Under 35 U.S.C. § 112

The Examiner has rejected claims 1, 5, 6, 8, 12, 13 and 16 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant traverses this rejection because the claims do point out and distinctly claim the subject matter which Applicant regards as the invention.

However, solely for purposes of expediting prosecution of this application, Applicant has amended claims to use the term “coordinating” rather than “enabling” in the preamble in order to further clarify the invention. Accordingly, Applicant requests that the Examiner withdraw this rejection of the claims.

The Examiner has rejected claims 1, 3, 5, 10 and 12 under 35 U.S.C. § 112 as allegedly lacking sufficient antecedent basis. Applicant has amended claims appropriately in order to address these formalities.

Application Serial No.: 10/044,915
Attorney Docket No. 042846-0312870
In Response to Final Office Action mailed May 4, 2006

CONCLUSION


Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: August 2, 2006

Respectfully submitted,

By:


Rick A. Toering
Registration No. 43,195

Customer No. 00909

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Main: 703-770-7900
Direct Dial: 703-770-7620
Fax: 703-770-7901